IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 563 of 2006

1. Faiyaz S/o Shesan IIahi
2. Sahezad S/o Faiyaz
3. Saleem S/o Soket
4. Riyazul S/o Munfait
5. Alam S/o Habib
6. Musleem S/o Ahmad Ali
7. Noor Alam S/o Noor Mohamad
   All R/o Village Sangeepur
   Police Station Laksar
   District Haridwar ……Applicants

Vs.

1. State of Uttaranchal
2. Civil Judge (J.D.)/ Judicial Magistrate
   Laksar, District – Haridwar
3. Faiyaz S/o Mohd. Kasim
   R/o Village Sangeepur
   Police Station Laksar
   District Haridwar ……Opp. Parties

Sri Rajendra Singh, learned counsel for the petitioners.
Learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the applicants who are the accused in Criminal Complaint Case No. 526 of 2005 Faiyaz Vs Faiyaz & others under Sections 147, 149, 323, 452, 307, 504, 506 I.P.C. The petitioners have prayed for quashing the aforesaid criminal proceedings as well as the impugned summoning order dated 04.05.2006 passed by the Judicial Magistrate, Laksar, District Haridwar.

2. Brief facts of the case are that the First Information Report was lodged by Faiyaz S/o Mohd. Kasim against the petitioners for the aforesaid offences. On account of this incident, Mohd. Sazid sustained firearm injuries on his person and he was medically examined in the hospital.

3. Learned counsel for the petitioners has argued that no prima-facie case is made out against the petitioners. He has also submitted that according to the prosecution version seven persons were armed with firearm and firing at the complainant side but only one person has sustained three firearm wounds injuries on his person, which is not probable.

4. Having considered the arguments advanced by the learned counsel for the petitioners, I am of the view that there is no abuse of process of the court in this case. While exercising the power under Section 482 Cr.P.C., it would not be justified on my part in going through the disputed question of fact by appreciating the documents and the evidence produced before me by treating them as evidence to hold the accused persons as innocent because it will amount the pre-trial of a criminal case. I am not supposed to embark upon an enquiry whether the allegations in the prosecution case are likely to establish by evidence or not. In this petition, I am concerned only to examine whether the First Information Report or the complaint or the material collected by the prosecution taken on their face value and accepted in entirety, prima-facie constitutes an offence or make out a case against the accused persons. I am not supposed to pre-judge the police papers and the discrepancies, if any, therein. The allegations made in the First Information Report and the material collected by the Investigating Officer during the investigation are referred to in make out a prima facie case of the offence. I don’t find any ground to quash the proceedings at this stage by appreciating evidence.

6. The petition lacks merit and is liable to be dismissed.

7. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

8. However, in case, if the applicants appear before the court for seeking their bail, the court concerned shall expedite the disposal of their bail applications.

(B.C. Kandpal, J.)

Dated: 19-07-2006
ASWAL